

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

INTERNATIONAL UNION OF  
OPERATING ENGINEERS, LOCAL 234,  
an unincorporated employee organization,

Petitioner,

vs.

PUBLIC EMPLOYMENT RELATIONS  
BOARD, ———

Respondent,

and

CLAY REGIONAL WATER DISTRICT,  
MARION COUNTY RURAL WATER  
DISTRICT, POWESHIEK WATER  
ASSOCIATION, ROCK VALLEY  
RURAL WATER DISTRICT,  
SOUTHERN IOWA RURAL WATER  
ASSOCIATION, WARRANT COUNTY  
WATER DISTRICT and XENIA RURAL  
WATER DISTRICT,

Intervenors.

Case No. CV 6161

RULING ON PETITION FOR  
JUDICIAL REVIEW

On September 29, 2006, the Court held a contested hearing on this Petition for Judicial Review. Attorney MacDonald Smith appeared (by telephone) on behalf of Petitioners International Union of Operating Engineers, Local 234 (hereinafter "Local 234"). Attorney Jan Berry appeared on behalf of Respondent Public Employment Relations Board (hereinafter "PERB"). Attorneys John Polley, Alissa Raddatz, and Dan Miller appeared on behalf of the Intervenors. Following arguments by counsel, review of the court file, the certified record, and applicable law, the Court enters the following ruling.

FILED  
POLK COUNTY, IA.  
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CLERK DISTRICT COURT

## **BACKGROUND FACTS AND PROCEDURAL HISTORY**

The present case involves a request for review of a Declaratory Order of PERB in Case No. 7230. That order declared rural water districts organized and operating pursuant to Iowa Code chapter 357A to be public employers as defined in Section 20.3 of the Iowa Code but that the provisions of Iowa Code sections 20.19-20.22 do not apply to bargaining impasses between them and the certified bargaining representatives of their employees. Local 234 asserts that the order is based on an erroneous interpretation of sections 20.19-20.22.

Local 234 represents employees, who seek to engage in collective bargaining pursuant to Chapter 20 of the Iowa Code with rural water district employers organized and operating under Chapter 357A. A rural water district may be established upon petition by real property owners to the county auditor. *See* IOWA CODE §§ 357A.1(1), 357A.3. The petition is heard by the county's board of supervisors and if it determined that the "proposed water district is reasonably necessary for the public health, convenience, and comfort of the residents, or may be of benefit in providing fire protection, they shall make an order establishing the district as a political subdivision . . . ." *Id.* § 357A.6.

Once a rural water district is established, property owners who choose to receive water from the rural water district must pay a monthly charge for the water. Rural water districts' operations are dependent on collection of these charges because rural water districts may not levy taxes and do not certify public budgets. IOWA CODE § 357A.12; *see also* IOWA CODE § 357A.4(4) (rural water districts "shall have no power to levy any taxes whatsoever"). In this case, Petitioners sought a declaratory order from PERB to determine whether rural water districts fell within the definition of public employers and whether the impasse procedures under Iowa Code sections 20.19 through 20.22 applied to negotiations.

## **STANDARD OF REVIEW**

The Iowa Administrative Procedure Act, Chapter 17A of the Iowa Code, governs judicial review of administrative agency decisions. *See* IOWA CODE § 17A (2005). Under Chapter 17, the proper standard of review is dependent upon the section 17A.19(10) grounds alleged in the petition and whether the interpretation or application of the statute is “clearly . . . vested by a provision of law in the discretion of the agency.” *Compare* IOWA CODE § 17A.19(10)(c) and §§ 17A.19(10) (l)-(m). The current issue before the Court is one primarily of law due to the virtually undisputed facts of the case. PERB was vested with the authority to interpret Chapter 20 of the Iowa Code. *Id.* § 20.1. Where the legislature vests an agency with the authority to interpret a given statute, the reviewing court should be deferential to that agency’s interpretation. *Id.* § 17A.19(11)(c). Nevertheless, the Iowa Supreme Court has made clear that while deference is accorded decisions of the agency, such deference is not conclusive and it still remains the duty of the court to ultimately determine the meaning of the statute. *Charles City Community Sch. Dist v. PERB*, 275 N.W.2d 766, 769 (Iowa 1979) (citations omitted).

## **ANALYSIS AND CONCLUSIONS OF LAW**

### **I. *Whether Rural Water Districts Are “Public Employers.”***

Iowa Code section 20.3(11) provides a definition of public employer. “‘Public employer’ means the state of Iowa, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts.” IOWA CODE § 20.3(11). Under this definition, PERB ruled that rural water districts were, in fact, public employers. PERB utilized its prior decisions pertaining to the Cedar Rapids Airport Commission, the Cedar Rapids Public Library Board, and the Humboldt County Conference Board to support its decision of including rural water districts within the definition of “public

employer.” See *PERB Dec. Order*, pp. 3-4. Additionally, PERB likened the rural water districts in the present case to county boards of health and county conservation boards, which have previously been viewed as public employers by PERB. *Id.*, pp. 4-5.

PERB’s prior decisions appear to coincide with the dictate from the Iowa Supreme Court that

[t]he Iowa Public Employment Relations Act is written in broad language so as to allow a large number of public employees to be eligible for coverage under the Act. See Iowa Code §§ 20.1, 20.3(3). We will read the exclusions under section 20.4 narrowly to promote the Act’s broad application. See *City of Des Moines v. Public Employment Relations Board*, 264 N.W.2d 324 (Iowa 1978) (construing Iowa Code § 20.4(2)); *City of Davenport v. Public Employment Relations Board*, 264 N.W.2d 307 (Iowa 1978) (same).

*Iowa Ass’n of Sch. Bds. v. PERB*, 400 N.W.2d 571 (Iowa 1987). PERB also cast aside the attempt to exempt rural water districts from the definition of public employer, by characterizing them as county political subdivisions, rather than political subdivisions of the state, which is the technical language of the statute. PERB interpreted the definition to include the rural water districts because even if viewed as county entities, because counties are subdivisions of the state. Ultimately, PERB concluded that rural water districts are special purpose districts, which are political subdivisions of the state, and are thus “public employers” within the meaning of Iowa Code section 20.3(11).

However, the Court views the statutory language of section 357A.6 as the clearest evidence that rural water districts are public employers. When a petition for a rural water district is heard by the county’s board of supervisors and if it determined that the “proposed water district is reasonably necessary for the public health, convenience, and comfort of the residents, or may be or benefit in providing fire protection, they shall make an order establishing the district as a *political subdivision* . . . .” *Id.* § 357A.6 (emphasis added). The Court finds no basis

to conclude that the meaning of “political subdivision” in section 357A.6 is different from its use in the definition of “public employer.” *Id.* § 20.3(11) (“the state of Iowa, its boards, commissions, agencies, departments, and its *political subdivisions* including school districts and other special purpose districts”) (emphasis added). Accordingly, PERB’s holding that rural water districts are public employers is affirmed.

## II. *Application of Iowa Code §§20.19-20.22 To Rural Water Districts*

Having affirmed PERB’s finding that rural water districts, like those in this case, are properly viewed as public employers, the Court turns to the question of whether the requirements of Iowa Code sections 20.19 through 20.22 apply.

The Public Employment Relations Act requires the employer and union to “endeavor to agree” on procedures which will provide for the resolution of the bargaining impasses “not later than one hundred twenty days prior to the certified budget submission date of the public employer.” IOWA CODE § 20.19. Additionally, the Act allows the appointment of a mediator at 120 days prior to the certified budget submission date if the parties have not established their own impasse procedures. *Id.* § 20.20. If the impasse persists ten days after appointment of the mediator a fact-finding will be performed by a representative appointed by the board. *Id.* § 20.21. Finally, if the impasse remains following the fact-finding binding arbitration may ensue. *Id.* § 20.22. It is the Interventors’ position that rural water districts are outside the scope of these impasse procedures because they do not have a “certified budget submission date.”

Typically, local governmental entities that have the power to tax are required to create and follow a certified budget, which is used to establish tax rates in that jurisdiction. *See* IOWA CODE CHAPTER 24 *et seq.* Rural water districts, however, may not levy taxes and have no certified public budgets. *See* IOWA CODE § 357A.12, § 357A.4(4). Instead, rural water districts

“prepare an estimated budget for the coming year, and adjust water rates if necessary in order to produce the revenue required to fund the estimated budget, and make a report thereon at the annual meeting.” IOWA CODE § 357A.11(4)(a).

The Iowa Legislature declared in the Public Employment Relations Act that “it is the public policy of the state to promote harmonious and co-operative relationships between government and its employees . . . by assuring effective and orderly operations of government . . .” IOWA CODE § 20.1. The Iowa Supreme Court has echoed this pronouncement. See *Maquoketa Valley Community Sch. Dist. v. Maquoketa Valley Educ. Ass’n*, 279 N.W.2d 510, 514 (Iowa 1979). Not realizing the importance of the certified budget submission date would prove inimical to the legislature’s purpose of the Public Employment Relations Act. *City of Des Moines v. PERB*, 275 N.W.2d 753, 761 (Iowa 1979).

The timeliness of negotiations is clearly an important concern for a public employer’s ability to “accurately request funds sufficient to cover the new agreement.” *Maquoketa Valley*, 279 N.W.2d 510 at 515; *Des Moines*, 275 N.W.2d at 761 (citing the importance of the certified budget submission date in allowing “a political subdivision to deal effectively with its duty to formulate a budget and carry out its provisions”). “Consequently, the manifest legislative intent that bargaining, and arbitration when necessary, be completed by the employer’s budget submission date made that a mandatory deadline.” *Maquoketa Valley*, 279 N.W.2d 510 at 514. As noted above, however, because rural water districts may not levy taxes, have no certified public budgets, and merely adjust water rates to produce the revenue required there is no basis for the Court to infer that they are required to adhere to the requirements of Iowa Code sections 20.19 through 20.22. See IOWA CODE §§ 357A.12, 357A.4(4), 357A.11(4)(a). Clearly, the parties are still able to negotiate impasse procedures on their own, they are simply not required to

have those procedures imposed on them that are contingent upon a certified budget submission date.

Ultimately, the Court agrees with PERB's analysis and conclusion. The impasse procedures, by their explicit language, are initiated based on the certified budget submission date. The mandatory impasse procedures are part of the larger intent of the Public Employment Relations Act, which is to ensure efficient and continuous operation of government. Because rural water districts are not subject to certified budget submission dates the impasse procedures are not applicable. This adherence to the statutory language is consistent with the purposes of the Public Employment Relations Act because there is no risk of setting taxation rates that could possibly be inconsistent with budgetary requirements.

**ORDER**

**IT IS THE ORDER OF THE COURT** that the decision of the Iowa Public Employment Relations Board is **AFFIRMED**.

Costs are taxed to the Petitioner.

**SO ORDERED** this 31<sup>st</sup> day of October, 2006.



**RICHARD G. BLANE, II**, District Judge  
Fifth Judicial District of Iowa  
Fifth Judicial District of Iowa

Clerk:   J     C     U     X  

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